

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 3287-02  
Bill No.: HB 1434  
Subject: Ethics, Lobbying, Public Officers  
Type: Original  
Date: January 26, 2010

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Bill Summary: Changes provisions relating to ethics.

**FISCAL SUMMARY**

| <b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>                   |                   |                   |                   |
|---|-------------------|-------------------|-------------------|
| FUND AFFECTED   | FY 2011           | FY 2012           | FY 2013           |
| General Revenue   | (\$65,921)        | (\$46,715)        | (\$48,116)        |
|   |                   |                   |                   |
| <b>Total Estimated<br/>Net Effect on<br/>General Revenue<br/>Fund</b> | <b>(\$65,921)</b> | <b>(\$46,715)</b> | <b>(\$48,116)</b> |

| <b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>                      |            |            |            |
|---|------------|------------|------------|
| FUND AFFECTED   | FY 2011    | FY 2012    | FY 2013    |
|   |            |            |            |
|   |            |            |            |
| <b>Total Estimated<br/>Net Effect on <u>Other</u><br/>State Funds</b> | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 9 pages.

| <b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>                          |                |                |                |
|---|----------------|----------------|----------------|
| <b>FUND AFFECTED</b>  | <b>FY 2011</b> | <b>FY 2012</b> | <b>FY 2013</b> |
|   |                |                |                |
|   |                |                |                |
| <b>Total Estimated<br/>Net Effect on <u>All</u><br/>Federal Funds</b> | <b>\$0</b>     | <b>\$0</b>     | <b>\$0</b>     |

| <b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b> |                |                |                |
|---|----------------|----------------|----------------|
| <b>FUND AFFECTED</b>                                      | <b>FY 2011</b> | <b>FY 2012</b> | <b>FY 2013</b> |
| Missouri Ethics<br>Commission                             | 1 FTE          | 1 FTE          | 1 FTE          |
|   |                |                |                |
| <b>Total Estimated<br/>Net Effect on<br/>FTE</b>          | <b>1 FTE</b>   | <b>1 FTE</b>   | <b>1 FTE</b>   |

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

| <b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b> |                |                |                |
|--|----------------|----------------|----------------|
| <b>FUND AFFECTED</b>                       | <b>FY 2011</b> | <b>FY 2012</b> | <b>FY 2013</b> |
| <b>Local Government</b>                    | <b>\$0</b>     | <b>\$0</b>     | <b>\$0</b>     |

## FISCAL ANALYSIS

### ASSUMPTION

Officials at the **Missouri Ethics Commission (MEC)** assume the proposed legislation would prohibit an individual from serving as treasurer or deputy of treasurer of more than one campaign finance committee concurrently; prohibit committee to committee transfers and implement campaign finance limits. The implementation of the above responsibilities would require the following additional resources:

Approximate cost for postage, printing, and dissemination of the PFD forms is \$.60 per form.

One Reporting Specialist position for every additional 3,000 filings, coordinate and disseminate the PFD forms, assist the filers, identify non-filers, and any related oversight in adherence to the filing of the required PFD's. Any increase in PFD filings below 3,000, the Commission anticipates it would require hiring temporary help to process the additional number of filings at approximately \$2,052.

One Reporting Specialist position for every additional 2,000 non-filing and late fee assessment notices; this includes creating and sending out non-filing notices and late fee assessments, tracking those individuals, sending out the necessary notices, tracking the receipt of payments, and coordinating/conducting any necessary collection efforts. Any increase in late notices below this number, the Commission anticipates it would require hiring temporary help to process the additional number of filings below 2000 at approximately \$985.

\$12,600 in expense and equipment to develop MEC search capabilities in locating treasurer/deputy treasurers with like names, who are serving in multiple committees, for oversight purposes, as established in 105.955.14, RSMo.

\$15,120 in expense and equipment to develop the MEC internal search capabilities for oversight of the campaign finance committees' adherence to the specific contribution limits, as established in 105.955.14, RSMo.. Current campaign finance data collection would allow the MEC to use search capabilities, providing for a manual review by MEC staff of adherence to the established limits.

One Investigator to accommodate anticipated increase in enforcement duties, as established in current state statute, related to the new provisions.

Two Reporting Specialist to conduct the routine work necessary in reviewing and providing oversight for the proposed legislation. Business analysts would provide the necessary oversight

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ASSUMPTION (continued)

including reviewing the registrations, creating the correspondence, answering necessary correspondence and communication, and tracking the results. The Commission's current resource that assists all lobbyists with the monthly filing and bi-annual filings, answers all lobbyists questions, sends out all lobbyists late and non filer notices, handles the lobbyist annual registrations also provides the support for the Campaign Finance filers. This resource would be unable to provide any additional support for the increased work anticipated. The analysts would also review committee reports for compliance, prepare necessary notices, track the receipt of payment, and coordinate the necessary collection efforts. Currently the Commission receives approximately 11,000 campaign finance reports annually.

Increases in investigations and oversight, beyond the Commission's current duties, would require the addition of one Investigator Supervisor and one Staff Attorney. Currently one supervisory staff oversees all investigations, filing of 11,000 campaign finance reports, 15,852 monthly lobbyist reports, 4,291 personal financial disclosure reports, registering 1,000 lobbyists, education and outreach.

The Commission would anticipate that changes or additions to the proposed language set forth in this bill, may require additional associated costs for FTE, equipment, and expenses.

**Oversight** has, for fiscal note purposes only, changed the starting salary for Reporting Specialist to correspond to the second step above minimum for comparable positions in the state's merit system pay grid. This decision reflects a study of actual starting salaries for new state employees over the last six months of FY 2002 and policy of the Oversight Subcommittee of the Joint Committee on Legislative Research.

**Oversight** assumes MEC would need one Reporting Specialist to help with the increased filing of the personal financial disclosure statement. **Oversight** assumes all other changes made by the proposal can be absorbed with existing staff.

Officials at the **Missouri House of Representatives, Office of the State Courts Administrator, Office of Prosecution Services, Office of the Governor** and the **Missouri Senate** assume that there is no fiscal impact from this proposal.

Officials at the **Office of the Attorney General** assume this proposal gives concurrent jurisdiction for the new D felony of obstruction of an ethics investigation. AGO assumes the number of referrals, if any, would be small and that any potential costs arising from this proposal can be absorbed with existing resources. If there is an increase in cases over time, AGO may

ASSUMPTION (continued)

seek an additional appropriation to adequately prosecute such matters.

For the purpose of this proposed legislation, officials at the **Office of State Public Defender (SPD)** cannot assume that existing staff will provide competent, effective representation for any new cases arising where indigent persons are charged with the proposed new crime of offering or receiving something of value for votes- a new Class D felony, failure to register as a lobbyist - a new Class B misdemeanor and/or obstruction of an Ethics Committee investigation another Class D felony.

Passage of bills increasing penalties on existing crimes, or creating new crimes, requires the State Public Defender System to further extend resources. While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional funding for this specific bill, the SPD will continue to request sufficient appropriations to provide competent and effective representation in all its cases.

**Oversight** assumes the SPD can absorb the additional caseload that may result from this proposal.

Officials from the **Department of Corrections (DOC)** stated that they could not predict the number of new commitments which could result from the creation of the offense(s) outlined in the proposal. An increase in commitments would depend on the utilization of prosecutors and the actual sentences imposed by the courts. If additional persons were sentenced to the custody of the DOC due to the provisions of this legislation, the DOC would incur a corresponding increase in operational costs either through incarceration (FY 2009 average \$16.04 per inmate, per day or an annual cost of \$5,855) or through supervision provided by the Board of Probation and Parole (FY 2009 average \$3.71 per offender, per day or an annual cost of \$1,354).

The following factors contribute to DOC's minimal assumption:

- DOC assumes the narrow scope of the crime will not encompass a large number of offenders.
- The low felony status of the crime enhances the possibility of plea-bargaining or imposition of a probation sentence.
- The probability exists that offenders would be charged with a similar but more serious offense or that sentences may run concurrent to one another.

In summary, supervision by the DOC through probation or incarceration would result in some additional costs, but it is assumed the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

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ASSUMPTION (continued)

Officials from the **Office of the Secretary of State (SOS)** state many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with the core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

**Oversight** assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

| <u>FISCAL IMPACT - State Government</u>                | FY 2011<br>(10 Mo.)      | FY 2012                  | FY 2013                  |
|--|--------------------------|--------------------------|--------------------------|
| <b>GENERAL REVENUE</b>                                 |                          |                          |                          |
| <u>Cost - Missouri Ethics Commission</u>               |                          |                          |                          |
| One-time computer upgrades                             | (\$27,720)               | \$0                      | \$0                      |
| <u>Cost - Missouri Ethics Commission</u>               |                          |                          |                          |
| Personal Services                                      | (\$23,288)               | (\$28,784)               | (\$29,648)               |
| Fringe Benefits  | (\$12,212)               | (\$15,094)               | (\$15,547)               |
| Equipment and Expenses                                 | (\$2,701)                | (\$2,837)                | (\$2,921)                |
| <u>Total Costs - MEC</u>                               | <u>(\$38,201)</u>        | <u>(\$46,715)</u>        | <u>(\$48,116)</u>        |
| FTE Change - MEC                                       | 1 FTE                    | 1 FTE                    | 1 FTE                    |
| <b>ESTIMATED NET EFFECT ON<br/>GENERAL REVENUE</b>     | <b><u>(\$65,921)</u></b> | <b><u>(\$46,715)</u></b> | <b><u>(\$48,116)</u></b> |
| <b>Estimated Net FTE Change on<br/>General Revenue</b> | <b>1 FTE</b>             | <b>1 FTE</b>             | <b>1 FTE</b>             |

| <u>FISCAL IMPACT - Local Government</u> | FY 2011<br>(10 Mo.) | FY 2012    | FY 2013    |
|---|---------------------|------------|------------|
|   | <u>\$0</u>          | <u>\$0</u> | <u>\$0</u> |

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This bill changes the laws regarding ethics and lobbying. In its main provisions, the bill:

- (1) Specifies that any person who intentionally offers to or accepts anything of value from an elected or appointed official or employee of the state or any political subdivision in direct exchange for voting for or against or engaging in any action designed to benefit, delay, or hinder the passage or failure of any specific state legislation, rule or regulation, or any local legislation or ordinance will be guilty of a class D felony;
- (2) Revises the definition of "elected local government official lobbyist" as it relates to Chapter 105, RSMo, to include appointed officials in political subdivisions and public school districts;
- (3) Specifies that any person who engages in lobbyist activities as defined in Section 105.470 and intentionally fails to register as a lobbyist will be guilty of a class B misdemeanor for the first violation and a class D felony for any subsequent violation;
- (4) Adds individuals compensated in any manner for certain types of work as political consultants or public relation experts to the definition of "lobbyist" as it relates to the provisions in Chapter 105;
- (5) Adds an individual who is employed by the state or by any elected or appointed state official or by any political subdivision or public school district and receives compensation for political activities or consulting not directly associated with the person's official duties to the list of individuals who must file a financial interest statement with the Missouri Ethics Commission;
- (6) Creates the crime of obstruction of an ethics investigation, a class D felony. A person who knowingly uses any item of value to obstruct a commission investigation or makes a false statement or submits inaccurate documentation to any commission member or employee or to any investigating official will be guilty of the crime. Retraction is a defense in certain specified circumstances. The commission can refer an obstruction of an ethics investigation to the county

FISCAL DESCRIPTION (continued)

prosecutor where the violation was alleged to have occurred, the Attorney General, or both for prosecution in any appropriate circuit court;

(7) Prohibits any person from serving as a treasurer or deputy treasurer on more than one committee. Any person, upon a determination by the commission that he or she is the treasurer or deputy treasurer of more than one committee, must vacate his or her position on all committees;

(8) Prohibits a committee from transferring any funds received by the committee to any other committee as specified in Chapter 130. Any person who violates this provision will be notified by the commission within five days of determining that the transfer is prohibited and the person must notify the committee to which the funds were transferred that they must be returned within 10 days. For a second violation, the person transferring the funds will be guilty of a class C misdemeanor and a class D felony for any subsequent violation. The prohibition will not apply to any transfer of funds from a committee to a candidate committee unless the intent is to conceal the identity of the actual source of the funds. Any person who transfers or attempts to transfer funds from a committee to any other committee with the intent to conceal the identity of the source of funds will be guilty of a class D felony; and

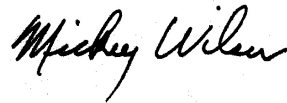
(9) Requires, beginning August 28, 2010, all committees to file any required disclosure report in an electronic format as prescribed by the commission.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.



SOURCES OF INFORMATION

Office of the State Public Defender  
Office of the Secretary of State  
Missouri House of Representatives  
Office of the State Courts Administrator  
Office of Prosecution Services  
Office of the Governor  
Missouri Senate  
Department of Corrections  
Office of the Attorney General  
Missouri Ethics Commission

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA  
Director  
January 26, 2010